

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE APPLICATION OF BENJAMIN STEINMETZ
FOR AN ORDER TO TAKE DISCOVERY FROM
VALE S.A., VALE AMERICAS INC., RIO TINTO
PLC, AND RIO TINTO LIMITED PURSUANT TO
28 U.S.C. § 1782

Case No. _____

**DECLARATION OF JOSEF M. KLAZEN IN SUPPORT OF THE
APPLICATION OF BENJAMIN STEINMETZ FOR AN ORDER TO TAKE
DISCOVERY FROM VALE S.A., VALE AMERICAS INC., RIO TINTO PLC, AND RIO
TINTO LIMITED PURSUANT TO 28 U.S.C. § 1782 FOR USE IN FOREIGN
PROCEEDINGS**

Josef M. Klazen declares the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am an attorney duly admitted to practice law in the State of New York. I am a member of the Bar of the State of New York as well as of this Court, and have been practicing law for 14 years. I am currently a partner at Kobre & Kim LLP (“Kobre & Kim”), located at 800 Third Avenue, New York, New York 10022. Kobre & Kim is counsel for Mr. Benjamin Steinmetz (the “Applicant” or “Steinmetz”) in this action.

2. I submit this declaration in support of the Application under 28 U.S.C. § 1782 to take discovery from Vale S.A., Vale Americas Inc., Rio Tinto plc, and Rio Tinto Limited (collectively, the “Respondents”), pursuant to 28 U.S.C. § 1782.

3. Except as otherwise indicated, all statements in this Declaration are based upon my personal knowledge and experience, or upon my review of publicly available materials or materials provided to Kobre & Kim in connection with its representation of the Applicant. Insofar as they

are within my own knowledge, the facts and matters set forth herein are, to the best of my own knowledge and belief, true.

4. Attached hereto as Exhibit 1 is a true and correct copy of the Proposed Order Granting Benjamin Steinmetz's Application Pursuant to 28 U.S.C. § 1782 to Take Discovery from Vale S.A., Vale Americas Inc., Rio Tinto plc, and Rio Tinto Limited for Use in Foreign Proceedings.

5. Attached hereto as Exhibit 2 is a proposed subpoena seeking the production of documents and deposition testimony from Vale S.A.

6. Attached hereto as Exhibit 3 is a proposed subpoena seeking the production of documents and deposition testimony from Vale Americas Inc.

7. Attached hereto as Exhibit 4 is a proposed subpoena seeking the production of documents and deposition testimony from Rio Tinto plc.

8. Attached hereto as Exhibit 5 is a proposed subpoena seeking the production of documents and deposition testimony from Rio Tinto Limited.

9. Attached hereto as Exhibit 6 is a true and correct copy of the Particulars of Claim filed before the High Court of Justice in the Business and Property Courts of England and Wales, Commercial Court, Queens Bench Division in the matter of *Vale S.A., Vale Holdings B.V., and Vale International S.A. v. Benjamin (Beny) Steinmetz, Dag Lars Cramer, Marcus Struik, Asher Avidan, Joseph Tchelet, David Clark, Balda Foundation, and Nysco Management Corporation* (CL-2019-000723) ("*Vale S.A. et al. v. Steinmetz et al.*").

10. Attached hereto as Exhibit 7 is a true and correct copy of the Defence of the First Defendant filed in *Vale S.A. et al. v. Steinmetz et al.*

11. Attached hereto as Exhibit 8 is a true and correct copy of the Application Notice for Summary Judgment on the Claimants' Proprietary Claim filed in *Vale S.A. et al. v. Steinmetz et al.*

12. Attached hereto as Exhibit 9 is a true and correct copy of the First Witness Statement of Doron Levy filed in *Vale S.A. et al. v. Steinmetz et al.*

13. Vale S.A.'s Form 20-F for the fiscal year ended December 31, 2010 filed with the Securities and Exchange Commission ("SEC") on April 28, 2011, is publicly available at <https://www.sec.gov/Archives/edgar/data/917851/000104746911004222/a2202934z20-f.htm>.¹

14. Vale S.A.'s Form 20-F for the fiscal year ended December 31, 2019 filed with the SEC on April 3, 2020, is publicly available at <https://www.sec.gov/Archives/edgar/data/917851/000104746920002065/a2240808z20-f.htm>.²

15. Attached hereto as Exhibit 10 is a true and correct copy of Exhibit 8 to Vale S.A.'s Form 20-F for the fiscal year ended December 31, 2019, filed with the SEC on April 3, 2020.

16. Attached hereto as Exhibit 11 is a true and correct copy of Vale S.A.'s Form S-8 filed with the SEC on February 21, 2020.

17. Attached hereto as Exhibit 12 is a true and correct copy of Vale S.A.'s Form 6-K filed with the SEC on April 30, 2010.

18. Attached hereto as Exhibit 13 is a true and correct copy of Vale Americas Inc.'s Entity Information on file with the New York Department of State Division of Corporations.

19. Attached hereto as Exhibit 14 is a true and correct copy of Vale Limited's Entity Information on file with the New York Department of State Division of Corporations.

¹ Applicant has not attached Vale S.A.'s Form 20-F hereto because it is 225 pages in length. Upon request of the Court, Applicant will file a copy of Vale S.A.'s Form 20-F.

² Applicant has not attached Vale S.A.'s Form 20-F hereto because it is 328 pages in length. Upon request of the Court, Applicant will file a copy of Vale S.A.'s Form 20-F.

20. Attached hereto as Exhibit 15 is a true and correct copy of Vale Americas Inc.'s Rule 7.1 Corporate Disclosure Statement filed in *Watchtower Bible and Tract Society of New York v. The Int'l Nickel Co. et al.* (7:15-CV-04306 (CS)).

21. Attached hereto as Exhibit 16 is a true and correct copy of the published Safety Data Sheet in relation to Utility Nickel from various Vale entities, updated as of April 21, 2020.

22. Rio Tinto plc and Rio Tinto Limited's Form 20-F for the fiscal year ended December 31, 2019, filed with the SEC on February 28, 2020 is publicly available at <https://www.sec.gov/Archives/edgar/data/863064/000162828020002536/wrapper2019form20-fdraft.htm>.³

23. Attached hereto as Exhibit 17 is a true and correct copy of Exhibit 8.1 to Rio Tinto plc and Rio Tinto Limited's Form 20-F for the fiscal year ended December 31, 2019, filed with the SEC on February 28, 2020.

24. Attached hereto as Exhibit 18 is a true and correct copy of Rio Tinto plc's Form S-8 filed with the SEC on December 31, 2018.

25. Attached hereto as Exhibit 19 is a true and correct copy of Rio Tinto America Holdings Inc.'s Entity Information on file with the New York Department of State Division of Corporations.

26. Attached hereto as Exhibit 20 is a true and correct copy of Rio Tinto America Inc.'s Entity Information on file with the New York Department of State Division of Corporations.

27. Attached hereto as Exhibit 21 is a true and correct copy of Rio Tinto Services Inc.'s Entity Information on file with the New York Department of State Division of Corporations.

³ Applicant has not attached Rio Tinto plc and Rio Tinto Limited's Form 20-F hereto because it is 72 pages in length. Upon request of the Court, Applicant will circulate a copy of Rio Tinto plc and Rio Tinto Limited's Form 20-F.

28. Attached hereto as Exhibit 22 is a true and correct copy of Rio Tinto America Inc.'s Rule 7.1 Corporate Disclosure Statement filed in *Castro and Castro v. Colgate-Palmolive et al.* (1:19-CV-00279 (JLS)).

29. Attached hereto as Exhibit 23 is a true and correct copy of Rio Tinto Minerals Inc. and Rio Tinto Services Inc.'s Rule 7.1 Corporate Disclosure Statement filed in *The City of Imperial Beach, individually and on behalf of the People of the State of California v. Chevron Corp. et al.* (4:17-CV-04934 (VC)).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 21, 2020
New York, New York

Respectfully submitted,

/s/ Josef M. Klazen

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